

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RUBEN R. WARD,

Plaintiff,

v.

Case No. 06-C-133

**BELINDA SCHRUBBE and
LISA CERVANTES,**

Defendants.

ORDER

Plaintiff Ruben R. Ward, a state prisoner proceeding pro se, lodged a complaint in this court under 42 U.S.C. § 1983 along with a motion for leave to proceed in forma pauperis. On May 8, 2006, the court denied the plaintiff's motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(g) because he had accumulated three "strikes". The court ordered that this case would be dismissed unless the plaintiff submitted the \$241.50 balance of the filing fee to the clerk of court on or before May 26, 2006.

On May 12, 2006, the plaintiff filed a notice of voluntary dismissal of this action. An action "may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(i). This action will therefore be dismissed. However, the plaintiff still owes the balance of the filing fee and that will be collected as set forth below. See Newlin v. Helman, 123 F.3d

429, 436-37 (7th Cir. 1997) (rev'd on other grounds by, Walker v. O'Brien, 216 F.3d 626 (7th Cir. 2000) and Lee v. Clinton, 209 F.3d 1025 (7th Cir. 2000)).

ORDER

NOW, THEREFORE, IT IS ORDERED that this action is dismissed pursuant to Fed. R. Civ. P. 41(a)(1)(i).

IT IS FURTHER ORDERED that the Secretary of the Wisconsin Department of Corrections or his designee shall collect from the plaintiff's prison trust account the \$241.50 balance of the filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding payments to the clerk of the court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

Dated at Milwaukee, Wisconsin this 25th day of May, 2006.

BY THE COURT:

s/AARON E. GOODSTEIN
United States Magistrate Judge